

Remarks

Claims 1-14 and 16-32 are pending in the application. Claims 1, 19, 20, 27, 30, and 31 were amended for clarity and claim 15 has been cancelled. No new matter has been added by the amendments. Reconsideration is respectfully requested.

Objections to the Drawings

The drawings were objected to for not showing every feature specified in the claims. The features of the securing means being threads, the first fitting having threads on an outer surface, and the first fitting having threads on an inner surface have been canceled from the claims. Therefore, the objection to the drawings should be withdrawn.

Rejections Under 35 U.S.C. § 102

Claims 17-18, 21, 24-25, and 28-29 were rejected under 35 U.S.C. § 102(b) as being anticipated by Buermann. This rejection is respectfully traversed.

Buermann fails to teach or suggest first or second straps attached to means for blocking particles from entering a fitting, as recited in Applicant's independent claim 17. Specifically, Applicant's claim 17 recites, "first and second straps bendable about said valve and attached to said means for blocking said first fitting...." In contrast, the stem 13 of Buermann, which the Examiner equates to the means for blocking, is not attached to the straps of Buermann. Instead, Buermann discloses that the stem is attached to a cap 1 and that attached to the cap are straps. Specifically, Buermann recites, "[t]he cap (1) further has a stem (13) attached thereto." Buermann, col. 4, line 27. Also, Buermann recites, "the first strap (2) is attached to the cap (1) at the first strap proximal end, the strap and the cap portion merging into

one another." Buermann, col. 5, lines 13-15. Further, Buermann recites, "the second strap (3) is attached to the cap (1) at the second strap proximal end (26), the strap and the cap portion merging into one another." Buermann, col. 5, lines 41-43. Buermann fails to teach or suggest straps attached to a means for blocking. Therefore, for at least this reason, Buermann fails to teach or suggest claim 17. Accordingly, Applicant respectfully submits that the rejection to claim 17 should be withdrawn. Claims 18-28 depend either directly or indirectly from claim 17. Therefore, the rejection to these claims should be withdrawn for at least the same reasons as provided with regard to claim 17.

Also, dependent claim 18 recites, "said means for blocking is a thimble." Buermann fails to teach or suggest straps attached to a thimble. Therefore, Buermann fails to teach or suggest claim 18 of the present invention.

Independent claim 29 recites, "means for blocking particles from entering said first fitting, said means for blocking attached to and disposed between said first and second enclosing means...." As stated above with regard to claim 17, Buermann fails to teach or suggest means for blocking attached to straps, straps being an example of enclosing means. Therefore, for at least this reason, Buermann fails to teach or suggest claim 29.

Claims 30 and 31 were rejected under 35 U.S.C. § 102 as being anticipated by Oliver. This rejection is respectfully traversed. Applicant's claim 31 recites, "a tapered cylinder having a base...." Oliver fails to teach or suggest a base. Specifically, Oliver recites that "the coupler is shown comprising a generally funnel shaped body 10 having attached thereto a long flexible tube 12." Oliver, col. 1, lines 64-66. Further, Oliver recites a tube or a hose may be attached to the coupler "enabling the contents of the bottle to be conveniently poured into the fill pipe of the

recreational vehicle." Oliver, col. 1, lines 36-40. The coupler of Oliver is used for transferring liquid and liquid transfer would not be possible if Oliver had a base. Therefore, Oliver fails to teach or suggest a base, as recited in independent claim 30. Accordingly, the rejection to claim 30 should be withdrawn.

Similarly, claim 31 recites, "a tapered thimble." A thimble has a base. As Oliver fails to teach or suggest a base, as described above with regard to claim 30, Applicant submits that it fails to teach or suggest claim 31. Accordingly, the rejection to claim 31 should be withdrawn. As claim 32 depends from claim 31, the rejection to this claim should be withdrawn for at least the same reason provided above with regard to claim 31.

Rejections Under 35 U.S.C. § 103

Claims 1-15 were rejected under 35 U.S.C. § 103 (a) as being unpatentable over Buermann in view of Flinta et al. and Oliver. This rejection is respectfully traversed.

Applicant submits that independent claim 1 is novel and non obvious over the cited references for several reasons. First, Applicant submits that Buermann fails to teach or suggest "a first strap attached to one side of the cylinder..." and "a second strap attached to another side of the cylinder" as recited in Applicant's claim 1. Instead, Buermann discloses that a stem is attached to a cap and that attached to the cap are straps. Specifically, Buermann recites, "[t]he cap (1) further has a stem (13) attached thereto." Buermann, at col. 4, line 27. Also, Buermann recites, "the first strap (2) is attached to the cap (1) at the first strap proximal end, the strap and the cap portion merging into one another." Buermann, col. 5, lines 13-15. Further, Buermann recites, "the second strap (3) is attached to the cap (1) at the second strap proximal end (26), the

strap and the cap portion merging into one another." Buermann, col. 5, lines 41-43. Buermann fails to teach or suggest straps attached to a cylinder, or to its stem which the Examiner appears to equate to a cylinder. Therefore, for at least this reason, Buermann fails to teach or suggest claim 1. Accordingly, Applicant respectfully submits that the rejection to claim 1 should be withdrawn.

Next, in making the rejection the Examiner states, "it would have been obvious to one having ordinary skill in the art at the time the invention was made to have provided a tapered cylinder in order to receive the nozzle as taught by Flinta...." Office action, at 4. Applicant submits that there is no motivation to combine Buermann and Flinta et al. for at least the reason that Buermann was not concerned with receiving a nozzle as was Flinta et al. Specifically, Buermann states, "[t]he stem 13 serves both to assist in attaching the instant device to the compressed gas cylinder valve and to safely retain a valve seal (177)." Buermann, col. 4, lines 48-50. Buermann was concerned with attaching a stem to a valve, not a nozzle, and therefore Buermann does not require a tapered cylinder. Since Buermann was not concerned with receiving a nozzle, there is no motivation to modify the device of Buermann in order that it is able to receive a nozzle. Applicant submits that "modification unwarranted by the disclosure of a reference is improper." Carl Schenck, A.G. v. Nortron Corp., 218 U.S.P.Q. 698, 702 (Fed. Cir. 1983). Here, modification of Buermann is unwarranted and thus improper. Thus, Buermann, either singly, or in combination with Flinta et al. fail to teach or suggest the claimed invention including the element of "a tapered cylinder", as recited in independent claim 1. Thus, Applicant submits that the rejection to claim 1 should be withdrawn for at least this reason.

Further, with regard to claim 1, the Examiner states, "Flinta discloses the strap having a ring (see figure 2) wherein the ring forming a needle eye shape (the ring is considered as needle eye shaped)." Office action, at 4. The Examiner continues, "[i]t would have been obvious that one of ordinary skill in the art at the time the invention was made to have provided the strap having a ring in order to secure the tapered cylinder to the nozzle and thereby preclude the tapered cylinder from becoming lost at taught by Flinta (see col. 4, lines 60-63)." Office action, at 4. Applicant strongly disagrees. Flinta et al. states, [t]he cap member 30 may also include a retention strap 37 that is adapted to securely tie the cap member 30 to the gas outlet base 23 and thereby preclude the cap member 30 from becoming lost." Flinta et al., col. 4, lines 60-63. Applicant submits that Flinta et al. merely disclose that the strap is used to tie the cap member to the gas outlet base. Flinta et al. fail to provide a written description of the purpose of the circular structure at the end of the strap shown in Fig. 2. Also, Flinta et al. fail to teach or suggest that the circular structure is of a size through which a burst disk is insertable, as recited in Applicant's independent claim 1. Specifically, Applicant's claim 1 recites, "said first strap having a ring through which said burst disk is insertable...." Therefore, for at least these reasons, the cited references fail to teach or suggest claim 1.

Additionally, with regard to claim 1, the Examiner states, "Oliver discloses a tapered cylinder having inner and outer surfaces with securing means (see figure 2). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have provided a tapered cylinder having inner and outer surfaces with securing means in order to attach the cylinder to any different sizes of thread as taught by Oliver...." Office action, at 5. In

response, Applicant submits that there is no motivation to combine Oliver with Buermann. Oliver was concerned with providing a funnel shaped coupler assisting with the transfer of fluid. In contrast Buermann was concerned with providing a safety cap and valve seal retainer for use with compressed gas cylinders to prevent intrusion of unwanted materials into a gas cylinder valve. Oliver discloses the passage of materials. In contrast, Buermann discloses the prevention of the passage of materials. Oliver and Buermann disclose very different purposes, thus it is unlikely that one of skill in the art would be motivated to combine the references. Therefore, for at least this reason, the rejection to claim 1 should be withdrawn.

Further, modification of the stem and cap of Buermann to a tapered cylinder having inner and outer surfaces with securing means would change principles of operation of Buermann. Retaining a valve seal and preventing the intrusion of unwanted materials are objectives of Buermann and these objectives are achieved with the use of a stem inserted in a valve aperture. Specifically, Buermann states:

The instant invention is a safety cap and valve seal retainer for use with compressed gas cylinders. The instant invention differs from the prior art in that it not only prevents the intrusion of unwanted materials into the valve but also ensures retention of the valve seal during transportation of the cylinder. These objects of the invention are accomplished through the use of a safety cap having a recessed area into which the valve seal sets and by the inclusion of a stem protruding from the center of the safety cap recessed area, the stem extending into the area of the valve in which a regulator would be attached prior to use." Buermann, col. 1, line 66 to col. 2, line 9.

Buermann also states, " [t]he stem 13 serves both to assist in attaching the instant device to the compressed gas cylinder valve and to safely retain a valve seal (177)." Buermann, col. 4, lines 48-50. Also, "in the preferred embodiment, as per Figs. 3 and 16, the stem (13) is essentially cylindrical and has an exterior diameter (181) no greater than an interior diameter (182) of the valve seal hole (178) so that the stem (13) may pass snugly through valve seal (177)." Buermann, col. 4, lines 53-58."

Clearly, Buermann indicates that its invention is a safety cap and valve seal retainer for use with compressed gas cylinders for preventing the intrusion of unwanted materials into the valve and for ensuring retention of a valve seal. Modification of Buermann to include a tapered cylinder would change principles of operation of Buermann. First, the coupler of Oliver (which is described as a tapered cylinder in the Office action) would not prevent the intrusion of unwanted materials as it is a funnel for funneling in materials. Second, according to Buermann, the disclosed stem and cap are what allow it to achieve retention of a valve seal. There is no teaching or suggestion that the coupler of Oliver would achieve the same effect as the stem and cap embodiment of Buermann.

The M.P.E.P. explicitly states that if "the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims *prima facie* obvious."

M.P.E.P. § 2143.01, 2100-138 (August 2005) (citing *In re Ratti*, 270 F.2d 810, 123 USPQ 349 (CCPA 1959)). Therefore, for at least these reasons, Applicant submits that claim 1 is not rendered obvious by the cited references. Claims 2-16 depend from claim 1 and are therefore novel and non-obvious over the

cited references for at least the same reasons provided above with regard to claim 1.

Claim 16 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Buermann in view of Flinta et al. and Oliver as applied to claims 1-15 above, and further in view of Robbins et al. This rejection is respectfully traversed. Applicant submits that claim 16 is novel and non-obvious over the cited references for at least the same reasons provided above with regard to claim 1, as claim 16 depends from claim 1.

With regard to the claimed element of tangs, the Examiner states, "[a]t the time the invention was made, it would have been an obvious matter of design choice to a person of ordinary skill in the art to have provided tangs as the securing because applicant has not disclosed that tangs provides an advantage, is used for a particular purpose, or solves a stated problem." Office action, at 5. In response, Applicant submits that the Federal Circuit articulated, "[w]e have found no cases supporting the position that a patent applicant's evidence and/or arguments traversing a § 103 rejection must be contained within the specification. There is no logical support for such a proposition as well, given that obviousness is determined by the totality of the record including, in some instances most significantly, the evidence and arguments proffered during the give-and-take of ex parte patent prosecution." *In re Chu*, 66 F.3d 292, 299 (Fed. Cir. 1995). Thus, the Examiner's reasoning does not indicate that the tangs of claim 16 would have been an obvious matter of design choice as an advantage, purpose or problem solved need not be disclosed.

Further, there is no motivation to combine Robbins et al. and the cited references. Robbins was concerned with providing a measuring dispensing cap allowing the flow of fluid. Robbins et al., col. 1, line 42 and lines 54-56. In

contrast, Buermann was concerned with providing a compressed gas cylinder safety cap and valve seal retainer preventing the intrusion of unwanted materials. Buermann, abstract and col. 1, line 67 to col. 2, line 4. Thus, one of skill in the art would not be motivated to combine the cited references. Accordingly, the rejection to claim 16 should be withdrawn as claim 16 is novel and non obvious over the cited references.

Claims 19 and 20 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Buermann in view of Oliver and further in view of Robbins et al. This rejection is respectfully traversed. As claims 19-20 depend from claim 17 they are novel and non-obvious over the cited references for at least the same reasons provided above with regard to claim 17.

Further, with regard to the claimed element of tangs, Applicant submits that claims 19 and 20 are novel and non obvious over the cited references. First, Robbins et al fail to teach or suggest tangs on an inner surface and tangs on an outer surface. Therefore, claim 19, and claim 20 from which claim 19 depends, are novel and non obvious over the cited references.

Additionally, with regard to the claimed element of tangs, the Examiner states, "[a]t the time the invention was made, it would have been an obvious matter of design choice to a person of ordinary skill in the art to have provided the securing means are tangs because applicant has not disclosed that tangs provides an advantage, is used for a particular purpose, or solves a stated problem." Office action, at 6. In response, Applicant submits, as stated above with regard to claim 16, that the Federal Circuit does not support the position that a patent applicant's arguments traversing a § 103 rejection must be contained within the specification. In *re Chu*, 66 F.3d 292, 299 (Fed. Cir. 1995). Thus, the Examiner's reasoning does not indicate that the tangs of

claims 19 and 20 would have been an obvious matter of design choice as an advantage, purpose or problem solved need not be disclosed. Therefore, Applicant respectfully submits that the rejections to claims 19 and 20 should be withdrawn.

Claims 22-23 and 26 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Buermann in view of Flinta et al. This rejection is respectfully traversed. First Applicant submits that these claims are novel and non obvious for at least the same reasons provided above with regard to claim 17, the claim from which they depend, either directly or indirectly.

Additionally, with regard to claims 22 and 23, Flinta et al. fail supplement the missing teachings of Buermann. Flinta et al. fail to teach or suggest a ring through which said burst strap is insertable, as recited in claim 22 from which claim 23 depends. Flinta et al. states, "[t]he cap member 30 may also include a retention strap 37 that is adapted to securely tie the cap member 30 to the gas outlet base 23 and thereby preclude the cap member 30 from becoming lost." Flinta et al. col. 4, lines 60-63. Applicant submits that Flinta et al. merely disclose that the strap is used to tie the cap member to the gas outlet base. Flinta et al. fail to provide a written description of the purpose of the circular structure at the end of the strap shown in Fig. 2. Also, Flinta et al. fail to teach or suggest that the circular structure is of a size through which a burst disk is insertable, as recited in Applicant's dependent claim 22. Therefore, for at least these reasons, the cited references fail to teach or suggest claims 22 and 23.

Further, Applicant submits that there is no motivation to combine Buermann and Flinta et al. for at least the reason that Buermann was not concerned with receiving a nozzle. In contrast, Flinta et al. were. In making the rejection the Examiner states, "it would have been obvious

that one of ordinary skill in the art at the time the invention was made to have provided a tapered cylinder in order to receive the nozzle as taught by Flinta...." Office action, at 7. However, Buermann was concerned with attaching a stem to a valve, not a nozzle, and therefore Buermann does not require a tapered cylinder. Buermann states, "[t]he stem 13 serves both to assist in attaching the instant device to the compressed gas cylinder valve and to safely retain a valve seal (177)." Buermann, col. 4, lines 48-50. Since Buermann was not concerned with receiving a nozzle, there is no motivation to modify the device of Buermann in order that it is able to receive a nozzle as the Examiner states. Therefore, Applicant submits that claims 22-23 and 26 are novel and non-obvious over the cited references for at least these reasons.

Claim 27 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Buermann in view of Flinta et al as applied to claims 22-23 and 26 above, and further in view of Oliver and Robbins et al. This rejection is respectfully traversed. First, Applicant submits that claim 27 is novel and non obvious over the cited references for at least the same reason provided above with regard to claims 17 and 26, from which claim 27 depends either directly or indirectly.

Further, with regard to the claimed element of tangs, Applicant submits that claims 27 is novel and non obvious over the cited references. First, Flinta et al. fail to teach or suggest tangs on an inner surface and tangs on an outer surface. Specifically, claim 27 recites, "[t]he device of claim 26 wherein said tapered cylinder having a base includes an inner surface having tangs and an outer surface having tangs...." Therefore, claim 27 is novel and non obvious over the cited references.

Additionally, with regard to the claimed element of tangs, the Examiner states, "[a]t the time the invention was

made, it would have been an obvious matter of design choice to a person of ordinary skill in the art to have provided the securing means are tangs because applicant has not disclosed that tangs provides an advantage, is used for a particular purpose, or solves a stated problem." Office action, at 8. In response, Applicant submits, as stated above with regard to claim 16, that the Federal Circuit does not support the position that a patent applicant's arguments traversing a § 103 rejection must be contained within the specification. *In re Chu*, 66 F.3d 292, 299 (Fed. Cir. 1995). Thus, the Examiner's reasoning does not indicate that the tangs of claims 27 would have been an obvious matter of design choice as an advantage, purpose or problem solved need not be disclosed. Therefore, Applicant respectfully submits that the rejection to claim 27 should be withdrawn.

Claim 32 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Oliver in view of Robbins et al. This rejection is respectfully traversed. First, Applicant submits that claim 32 is novel and non-obvious over the cited references for at least the same reasons provided above with regard to claim 31 from which it depends.

Additionally, with regard to the claimed element of tangs, the Examiner states "[a]t the time the invention was made, it would have been an obvious matter of design choice to a person of ordinary skill in the art to have provided tangs as the securing means are tangs because applicant has not disclosed that tangs provides an advantage, is used for a particular purpose, or solves a stated problem." Office action, at 8. In response, Applicant submits, as stated above with regard to claim 16, that the Federal Circuit does not support the position that a patent applicant's arguments traversing a § 103 rejection must be contained within the specification. *In re Chu*, 66 F.3d 292, 299 (Fed. Cir. 1995). Thus, the Examiner's reasoning does not indicate that the

tangs of claim 32 would have been an obvious matter of design choice as an advantage, purpose or problem solved need not be disclosed. Therefore, Applicant respectfully submits that the rejection to claim 32 should be withdrawn.

Conclusion

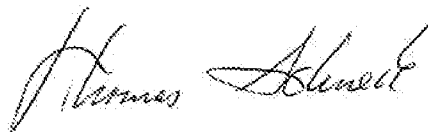
For at least the reasons provided above, Applicant submits that claims 1-14 and 16-32 are in condition for allowance. Accordingly, a Notice of Allowance is respectfully requested.

CERTIFICATE OF MAILING

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Signed: Sally Azevedo
Typed Name: Sally Azevedo
Date: November 17, 2006

Respectfully submitted,



Thomas Schneck

Reg. No. 24,518

Schneck & Schneck

P.O. Box 2-E

San Jose, CA 95109-0005

(408) 297-9733